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TELECOPY COVER SHEET

TO: Brewster Kahle ON: December 14, 1994 at _____
(Date) (Time)
FIRM: W.A.I.S. CLIENT NO.: 15123.006
CITY/STATE: Menlo Park, CA CLIENT NAME: W.A.I.S.
HOME #: (415) 617-0444 WSGR OPERATOR: _____

TELECOPY #: <u>(415) 327-6513</u>	ATTENTION:	NOTIFY RECIPIENT
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FROM: Suzanne Y. Bell EXT.: 4720 LOCATION: FH2-2

TOTAL NUMBER OF PAGES INCLUDING THIS COVER SHEET: 5

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MESSAGE:

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2. DEVELOPMENT OF CUSTOM PRODUCT AND MODIFIED STANDARD PRODUCT.

2.1 Project. The objective of the Project is the development and delivery to AOL of the Modified Standard Product and the Custom Product by WAIS in accordance with the schedule set forth in Exhibit B. In the event that WAIS fails to deliver the Custom Product, Modified Standard Product and Documentation in accordance with the schedule set forth in Exhibit B, then for each day past such date, One Thousand Dollars (\$1,000.00) shall be deducted from the total payments due to WAIS as provided in Section 2.6 below; provided, however, that the dates set forth in Exhibit B shall be extended as a result of and in proportion to any delay in AOL's performance of its obligations; and provided, further, that the dates set forth in Exhibit B shall be extended if AOL's testing period after any delivery extends beyond five (5) days. In no event shall the amount of late payments under this Section 2.1 exceed the amount of Twenty-Five Thousand Dollars (\$25,000.00). Exhibit A attached hereto sets forth specific development objectives for the Project and the Deliverables for the Project, as well as the engineering plan and design pursuant to which the Project is to be completed. WAIS will implement the Project and has responsibility for the Project, including, without limitation, the design, coding, documentation, quality assurance and testing of the Custom Product and Modified Standard Product.

2.2 Creation and Delivery of the Custom Product, Modified Standard Product and Documentation. In connection with its implementation of the Project pursuant to this Article 2, WAIS agrees to:

- (a) Consult with AOL, as necessary for the implementation of the Project, and provide AOL with progress reports;
- (b) Commit and utilize sufficient resources and qualified personnel to implement the Project on a timely basis;
- (c) Notify AOL of any factor, occurrence or event which is reasonably anticipated by WAIS to affect its ability to meet any of its material obligations;
- (d) Deliver the Deliverables consistent with the Project and its deadlines;
- (e) Maintain appropriate records and backup materials throughout the term of the Project; and
- (f) Following Acceptance by AOL, provide AOL with a complete copy of Source Code and Object Code versions of the Custom Product and a complete copy of the Object Code version of the Modified Standard Product, as well as a copy of the Documentation.

2.3 Acceptance Testing. Upon completion by WAIS of any Deliverable in accordance with the Project, WAIS shall deliver the Deliverable to AOL. Following its receipt of such Deliverable, AOL shall perform and conduct tests to determine that the Custom Product and Modified Standard Product perform to specifications set forth in Exhibit A. AOL may reject the Deliverable only if the Deliverable does not comply with the specifications set forth in Exhibit A and only by giving WAIS written notice of such noncompliance (including, but not limited to, specification and documentation of the noncompliance upon which the rejection is based) within twenty (20) days from the receipt of the Deliverable. If notice of noncompliance is not given within such time period, the Deliverable shall be deemed Accepted. If the Deliverable being tested does not

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TELECOPY COVER SHEETTO: David PhillipsON: December 14, 1994 at 10:31
(Date) (Time)FIRM: America Online, Inc.CLIENT NO.: 15123.006CITY/STATE: Vienna, VACLIENT NAME: WAIS, Inc.OFFICE #: (703) 917-1810WSGR OPERATOR: MCTELECOPY #: (703) 448-9164

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MESSAGE:

David:

I have attached changed pages incorporating the changes agreed upon in Sections 2.3 and 2.8.2 of the WAIS/America Online Agreement. Please have the appropriate person execute two copies of the entire document with the substituted pages and return both copies to Brewster Kahle at WAIS.

Suzanne

THE DOCUMENTS ACCOMPANYING THIS TELECOPY TRANSMISSION CONTAIN INFORMATION FROM WILSON, SONSINI, GOODRICH & ROSATI AND ARE FOR THE SOLE USE OF THE ABOVE INDIVIDUAL OR ENTITY, AND MAY BE PRIVILEGED, CONFIDENTIAL AND EXEMPT FROM DISCLOSURE UNDER LAW. ANY OTHER DISSEMINATION, DISTRIBUTION OR COPYING OF THIS COMMUNICATION IS STRICTLY PROHIBITED. PLEASE NOTIFY US IMMEDIATELY BY TELEPHONE IF YOU ARE NOT THE INTENDED RECIPIENT AND RETURN THE ORIGINAL MESSAGE TO US AT THE ABOVE ADDRESS. WE WILL REIMBURSE YOUR REASONABLE PHONE AND POSTAGE EXPENSES FOR DOING SO.

2.5.3 Notice. Within seven (7) days of the Effective Date of this Agreement, each party shall provide the other party with written notice of the identity of its project manager. During the Project, seven (7) days' prior written notice shall be given in the event either party elects to change its project manager.

2.5.4 Authority. Each party shall vest its project manager with the authority necessary to carry out his or her obligations and responsibilities hereunder. Each party may assume the other party's project manager is acting within the scope of his or her authority.

2.6 Payments. The parties acknowledge that AOL has already paid WAIS Twenty-Five Thousand Dollars (\$25,000.00) in connection with background work relating to Project. Within fifteen (15) days after WAIS's delivery of the initial version of the Custom Product and Modified Standard Product, which shall be delivered in accordance with the schedules set forth herein, AOL shall pay WAIS Fifty Thousand Dollars (\$50,000.00). Upon AOL's acceptance of the final version of the Custom Product and Modified Standard Product and all Deliverables associated therewith, which shall be delivered in accordance with the schedules set forth herein, AOL shall pay WAIS Twenty-Five Thousand Dollars (\$25,000.00).

2.7 Tax Withholding. In the event that applicable tax law requires AOL to withhold any tax from any payments due to WAIS, AOL shall provide WAIS with appropriate available information, receipts and copies of forms or information relating to such withholdings. Each party shall pay all duties and taxes, however designated, imposed as a result of the existence or operation of this Agreement upon it, including, but not limited to, sales tax.

2.8 Ownership.

2.8.1 Modified Standard Product. WAIS hereby retains all right, title and interest in and to the Modified Standard Product and related Documentation and all components thereof, including all copyrights, trade secrets, patentable materials, patents and other intellectual property rights therein and thereto. AOL's rights to the Modified Standard Product are as set forth in Section 3 below.

2.8.2 Custom Product. Upon AOL's Acceptance of the Custom Product, WAIS irrevocable shall be deemed to assign to AOL joint right, title and interest, throughout the world and without restriction, in and to the Custom Product and related Documentation and all components thereof, including all copyrights, trade secrets, patentable materials and other intellectual property rights therein and thereto. Each party shall have the right to use, disclose and exploit the Custom Product for any purpose without restriction and without a duty to account to the other party for profits therefrom; provided, however, that WAIS shall keep confidential and not disclose, according to the provisions of Section 10, any confidential and proprietary information of AOL related to Rainman Plus that may be embodied in the Custom Product.

3. LICENSING OF MODIFIED STANDARD PRODUCT.

3.1 Licenses Granted by WAIS.

3.1.1 License. WAIS hereby grants to AOL a nonexclusive, nontransferable license, without the right to sublicense, to use one (1) copy of the Modified Standard Product and related Documentation solely on one computer containing a single processor ("Server") located at its Vienna, Virginia facility, and solely as part of the Lighting System, and to allow AOL's customers to use the Modified Standard Product as installed on the Server to perform searches. AOL may make one (1) copy of the

successfully meet the acceptance test, WAIS will use best efforts to effect appropriate corrections and shall resubmit the Deliverable for testing within ten (10) days of receipt of the notice of rejection, at which time AOL shall reperform acceptance testing to determine whether the Custom Product or Modified Standard Product, as applicable, performs to specifications set forth in Exhibit A. If there is continued substantial noncompliance, AOL shall provide WAIS with written notice of such rejection no later than twenty (20) days after performance of such tests, as AOL's sole remedy for such noncompliance and AOL shall be entitled to terminate this Agreement and receive prompt refund of all payments made to WAIS hereunder, except for AOL's initial payment to WAIS of Twenty-Five Thousand Dollars (\$25,000.00).

2.4 AOL Assistance. In order to enable WAIS to perform its duties pursuant to the Project and under this Agreement, AOL shall provide the following to WAIS at no cost to WAIS during the implementation of the Project by WAIS:

(a) A sufficient number of complete, current copies of the appropriate and available documentation and related materials for the Rainman Plus in print and machine-readable format and certain examples of AOL's Source Code format; and

(b) Access to AOL employees who are well-qualified experts on Rainman Plus. These AOL-employed experts shall provide prompt assistance to WAIS upon request by WAIS in all aspects of the implementation of the Project, including, without limitation, providing WAIS with information, advice, counseling, education and solutions to problems encountered by WAIS. Unless WAIS indicates that the urgency of a particular situation requires faster communication, the mode of communication between WAIS and AOL pursuant to which AOL shall fulfill its obligations under this Section 2.4(b) shall be facsimile.

2.5 Project Management.

2.5.1 WAIS Project Manager. The WAIS project manager shall be WAIS's representative and point of contact for the resolution of problems related to managing the Project, and shall participate and cooperate in the coordination of activities between WAIS and AOL. The WAIS project manager shall also have primary responsibility for, and control over, the development of the Custom Product and the Modified Standard Product and management of the Project, subject to appropriate WAIS internal procedures and controls. The WAIS project manager shall plan, staff, implement and manage the Project. Upon reasonable prior request of the AOL project manager, the WAIS project manager shall allow the AOL project manager during reasonable business hours reasonable consultation with the relevant WAIS personnel (as reasonably designated by the WAIS project manager) and to have reasonable access to the Custom Product Deliverables for the purpose of reviewing the progress of the Project.

2.5.2 AOL Project Manager. The AOL Project Manager shall be AOL's representative and the AOL point of contact for the resolution of problems related to managing the Project, and shall participate and cooperate in the coordination of activities between AOL and WAIS. The AOL project manager shall also have primary responsibility for and control over the management of AOL's contribution to the development of the Custom Product and Modified Standard Product as set forth in this Agreement, subject to appropriate AOL internal procedures and controls. Upon reasonable prior request of the WAIS project manager, the AOL project manager shall allow the WAIS project manager during reasonable business hours to consult with the relevant AOL personnel.